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FISCAL IMPACT REPORT

SPONSOR: R	uiz	DATE TYPED:	3/10/03	HB	433 /a HBIC /a HJC
SHORT TITLE:	Void Certain Indemnification Agreements		SB		
	ANALYST:			Maloy	

APPROPRIATION

Appropriation Contained		Estimated Add	litional Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			NFI		

SOURCES OF INFORMATION

Responses Received From
Office of the Attorney General
State Highway and Transportation Department
Construction Industries Division, Regulation and Licensing Department

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amended HB 433 to eliminate duplicative / unnecessary wording. "Alteration, repair and maintenance" are all combined in the first word of the list, "construction". As such, this is a non-substantive amendment.

Synopsis of HBIC Amendment

The House Business and Industries Committee amended HB 433 to "clean-up" language, and to broaden the language relating to the sureties effected (replacing "a construction contract" bond with "any surety bond").

Synopsis of Original Bill

House Bill 433 changes liability insurance laws governing construction contracts. Specifically, the bill provides that agreements to indemnify one party against damages, losses and expenses arising out of bodily injury or property claims resulting from the negligence of the indemnitee

House Bill 433/aHBIC/aHJC -- Page 2

(the party that is to benefit from the liability coverage) shall be void.

HB 433 provides that these indemnification terms shall be enforceable when the <u>claim is the result of negligence</u> on the party of the indemnitor (the party carrying the liability coverage).

Finally, HB 433 requires project-specific insurance.

Significant Issues

This bill prohibits a party that is negligent and the cause of the damage from benefiting from an indemnification clause.

The intent is to encourage greater care on the part of the indemnitee. Further, it will protect responsible, well-insured contractors from being penalized for the lack diligence and care of others.

Also, requiring project-specific insurance policies will better ensure that a worker will not become injured on the job only to find that his injuries, and the cost of care, are not adequately covered by the appropriate, responsible party (providing the injury is not the result of the worker's own negligence). When workers are not adequately covered, the result is a hit to taxpayers.

FISCAL IMPLICATIONS

HB 433 has no direct fiscal impact on the state. However, this bill should have a secondary effect of lowering insurance and workers' compensation premiums. This may lower over-head costs of doing business in New Mexico and stimulate economic development.

SJM/sb